United Nations A/55/784–S/2001/136

General Assembly
Security Council

Distr.: General
14 February 2001

Original: English

General Assembly
Fifty-fifth session
Agenda item 64
Question of Cyprus

Security Council
Fifty-sixth year

Letter dated 14 February 2001 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

I have the honour to refer to the letter dated 28 December 2000 from the Permanent Representative of the Republic of Turkey addressed to you (A/55/717-S/2000/1241).

I would like to rebut the new incorrect assertions and allegations in the above letter, which in effect reproduces most of the unfounded views expressed in his first letter dated 21 December 2000.

To the extent that these points have been dealt with in my letter dated 13 February 2001, I shall merely provide a brief restatement of my Government's position, which is consistent with international law and the United Nations resolutions on the question of Cyprus.

Neither the Republic of Turkey's consent nor that of its subordinate local administration, the "Turkish Republic of Northern Cyprus (TRNC)", is legally necessary for the approval of the mandate of the United Nations Peacekeeping Force in Cyprus (UNFICYP). It is noted that for several years Turkey has not agreed to the extension of the mandate — as she has indicated in statements to the Security Council before resolutions have been passed.

Moreover, it has never been United Nations practice to register the consent of either Turkey or her subordinate local administration to the extension of the UNFICYP mandate.

In accordance with Security Council resolution 186 (1964), the only necessary and relevant consent is that of the Government of Cyprus, which continues to operate in respect of the sovereign State of the Republic of Cyprus and its territory.

Practical military local arrangements along the ceasefire line have been established. In relation to the part of Cyprus occupied by the Republic of Turkey, the relevant local elements are the Turkish Mainland Army (which the United Nations holds responsible for the ceasefire) and other elements under that Army's overall

01-25029 (E) 150201

control. Arrangements for such cooperation have not been formalized ever since 1975 because Turkey's subordinate local administration has always sought to impose a condition of recognition of that entity, whether indirectly by the mode of reaching an agreement or by express recognition.

The Turkish Forces' presence on the island does not stem from the 1960 Treaty of Guarantee and that of the Treaty of Alliance. Initially, a contingent of 650 Turkish troops was stationed in Cyprus under the latter Treaty. In April 1964, Turkey was formally notified of her major breach of that Treaty. As to the Treaty of Guarantee, the Republic of Turkey has claimed to rely on its article IV in order to justify its 1974 invasion and continuing occupation of 36.49 per cent of the island's territory. Article IV of the Treaty of Guarantee does not, however, grant any right of armed military intervention to the guaranteeing powers. If we were to assume that by the term "take action" the guarantors had in mind military action, then the treaty they concluded is contrary to Article 2, paragraph 4, of the Charter of the United Nations. Further, Article 103 of the Charter provides that in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligation under the present Charter shall prevail. Hence the guarantors, even if we assume that under the Treaty of Guarantee they had in mind military action, had a duty to refrain from such action since military action is prohibited by Article 2, paragraph 4, of the Charter. The Treaty of Guarantee, in accordance with the second paragraph of its article V, was deposited with the Secretariat of the United Nations by virtue of Article 102 of the Charter and is governed by its provisions. Even if we assume that the Treaty constitutes a regional arrangement within the meaning of Chapter VIII of the Charter, it is impossible for the provisions of Article 53 of the Charter to be overlooked, in accordance with which no enforcement measures can be taken without the authorization of the Security Council. And even if Article IV of the Treaty of Guarantee grants to one of the guaranteeing Powers the right of taking military measures, in the present case the prerequisites of its application did not exist. By invading Cyprus on 20 July 1974 and sending further forces thereafter, the Republic of Turkey is also in breach of the Treaty of Guarantee. It cannot lawfully claim to rely on those Treaties for the presence of Turkish Forces in Cyprus. I draw attention, in this respect, to the Security Council's call in its resolution 367 (1975), paragraph 4, for the urgent and effective implementation of all parts and provisions of General Assembly resolution 3212 (XXIX), in paragraph 2 of which the Assembly urged the speedy withdrawal of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus and the cessation of all foreign interference in its affairs.

Security Council resolution 367 (1975) has repeatedly been reaffirmed.

It is misleading to write that measures concerning UNFICYP are put into effect "by a decision of the TRNC Government". As pointed out by the European Court on Human Rights (case of Loizidou versus Turkey (Art. 50), Art. 40/1993/435/514, Strasbourg, 28 July 1998), Turkey's subordinate local administration acts under the overall authority of the Republic of Turkey. Turkey's control is particularly evident in military matters, where there is no civil competence, but instead direction by two Turkish Generals of the Turkish Mainland Army and of the "TRNC Security Forces", meeting weekly with the "Ambassador of Turkey to the TRNC" and Mr. Denktash.

There was no United Nations institutionalized practice of the Secretary-General's report on UNFICYP operations containing an addendum, reflecting the attitude or "consent of the Turkish Cypriot party". In the past, an addendum has referred to the attitude of the Republic of Turkey. Recent attempts by Turkey to change the nature of the addendum in pursuit of political aims and the recognition of the "TRNC" led to a cessation of this procedure, which was being abused.

The military status quo relates to the position as agreed by the various local ceasefires of August 1974 and thereafter. Any movement of positions forward constitutes a change in that status quo. It is irrelevant that there is no buffer zone adjacent to Strovilia. The Republic of Turkey is responsible for moving forward any military position. It should be added that Strovilia has always been regarded by UNFICYP and the Secretary-General as a "special status area", and it is of grave concern that arguments based on non-existence of an adjacent buffer zone are being put forward: such arguments will doubtless be used to justify further "advances". The international community expects that the Government of Turkey will comply with the provisions of Security Council resolution 1331 (2000), restore the status quo ante in Strovilia and rescind the measures against UNFICYP.

The "TRNC" does not have "territory". The Republic of Cyprus, in accordance with international law, remains territorially integral. What there is in reality and in law is a military occupation of 36.49 per cent of the Republic of Cyprus by the Republic of Turkey.

The reference to missing persons is regrettable. It is, however, to be expected from the Turkish side and Mr. Denktash, who announced on television on 1 March 1996 that "our fighters killed Greek Cypriots captured by and handed over by the Turkish Army". The Turkish side has, as yet, taken no steps to assist in discovering graves and informing family members. As for the assertion that this issue is kept alive for political purposes by the Greek Cypriot side, the position of the Cyprus Government is clear: unless Turkey and her subordinate local administration conduct proper investigations, they will continue to violate the European Convention on Human Rights and United Nations human rights law and will be found responsible for inhuman treatment of missing persons' grieving relatives.

I have explained in my letter of 13 February 2001 the position of the Government of Cyprus with regard to the so-called "embargos".

I should be grateful if the text of the present letter would be circulated as a document of the General Assembly, under agenda item 64, and of the Security Council.

(*Signed*) Sotirios **Zackheos**
Ambassador, Permanent Representative